

REMARKS

Claims 20-44 are pending. Claims 45-47 have been cancelled without prejudice. Claims 20, 22, 24, 26, 28, 33 and 35 are the independent claims.

With regard to the allegation that the Declarations were somehow improper, Applicants traverse. *All* of the inventors signed the Declaration. The fact that two inventors signed one copy of the Declaration and one inventor signed a different copy of the same Declaration does not make the filing of the Declaration improper in any way.

Moreover, this filing was considered appropriate by the Patent Office in the Notification of Acceptance of Application Under 35 U.S.C. 371 mailed July 26, 2001, which indicated that *all* the requirements, including the Declaration, had been met. Once this determination has been made as to the filing of a proper Declaration in a National Stage application, it is not believed that this issue should be reopened in a subsequent Office Action. The Examiner is respectfully requested to withdraw the objection to the Declaration.

The Information Disclosure Statement filed with the original filing papers has not been initialed. It is requested that the PTO-1449 form included with the original filing papers (listing three foreign references) be initialed and returned with the next Office Action.

Claims 20-47 were rejected under 35 U.S.C. § 103 over Togher et al. The cancellation of claims 45-47 renders moot the rejection of those claims. Applicants submit that the independent claims are patentable over Togher et al. for at least the following reasons.

Independent claim 20 recites, inter alia, determining which pairs of credit granting entities are credit bearing counter-parties which extend bilateral credit to one another as a function of the unilateral credit information, the determination being made as a function of at least a respective assigned risk factor for each of the different types of financial instruments, at least two of the assigned risk factors being different from one another.

The invention defined by independent claim 20 uses a respective assigned risk factor in determining a credit threshold. The main example of the use of the invention in the specification is the case in which the risk factor is for a forward rate agreement and is a volatility factor related to the volatility of interest rates, although the claims are not limited to the disclosed embodiment.

The Office Action asserted that it would have been obvious to modify the system of Togher et al. to include a variety of risk factors in credit determination. It is submitted that this is simply not the case.

The system of Togher et al is primarily for trading foreign exchange. In foreign exchange trading there is no market risk in a trade, as the value of the instrument (foreign exchange) being traded is known at the point of trade. The risk in foreign exchange trading is *settlement risk*, that is, does the other party have the funds to pay. In contrast, as explained at page 17, of the present specification, the risk in trading instruments, such as forward rate agreements, is primarily a market risk. That is, the *value of the trade itself* may change with changes in some external factor, such as interest rates.

Unlike the system disclosed in Togher, the liability for a forward rate agreement is not fixed at the time a price is taken, as the liability will actually vary with

interest rates. If the skilled person sought to modify the system of Togher to handle credit for instruments, such as forward rate agreements, it is submitted that they would not consider using calculations based on a risk factor as that is recited in Claim 20.

Instead, following the teaching of Togher, the credit assessment would be performed by valuing the credit needed for the trade, at the time of the trade. However, the inventors of the present invention appreciated that this would not take proper account of the market risk and so the concept of a risk factor was introduced.

In view of the above, Applicants submit that it would be impermissible hindsight to asserting that it would be obvious to modify the system of Togher et al. in the manner of the present invention. Moreover, the invention defined by independent claim 20 allows a variety of different instruments to be traded in a manner not seen in the prior art.

For at least the foregoing reasons, claim 20 is believed patentable over Togher. The other independent claims recite a similar feature and are believed clearly patentable over Togher for similar reasons.

The other claims in this application are each dependent from one or another of the independent claims discussed above and are therefore believed patentable for the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

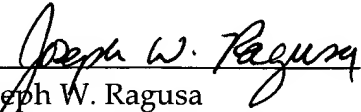
Application No. 09/786,736
Amendment dated December 20, 2006
Reply to Office Action of June 21, 2006

Docket No.: E3331.0217

In view of the foregoing amendments and remarks, Applicants respectfully request favorable reconsideration and early passage to issue of the present application.

Dated: December 20, 2006

Respectfully submitted,

By 
Joseph W. Ragusa

Registration No.: 38,586
DICKSTEIN SHAPIRO LLP
1177 Avenue of the Americas
41st Floor
New York, New York 10036-2714
(212) 277-6500
Attorney for Applicant